

LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE
BUREAU OF FRAUD AND CORRUPTION PROSECUTIONS
JUSTICE SYSTEM INTEGRITY DIVISION

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[redacted]

October 28, 2009

Captain David Smith
Homicide Bureau
Los Angeles County Sheriff's Department
5747 Rickenbacker Road
Commerce, California 90040

Re: J.S.I.D. File #: 08-0568
L.A.S.D. File #:008-09281-0399-055

Dear Captain Smith:

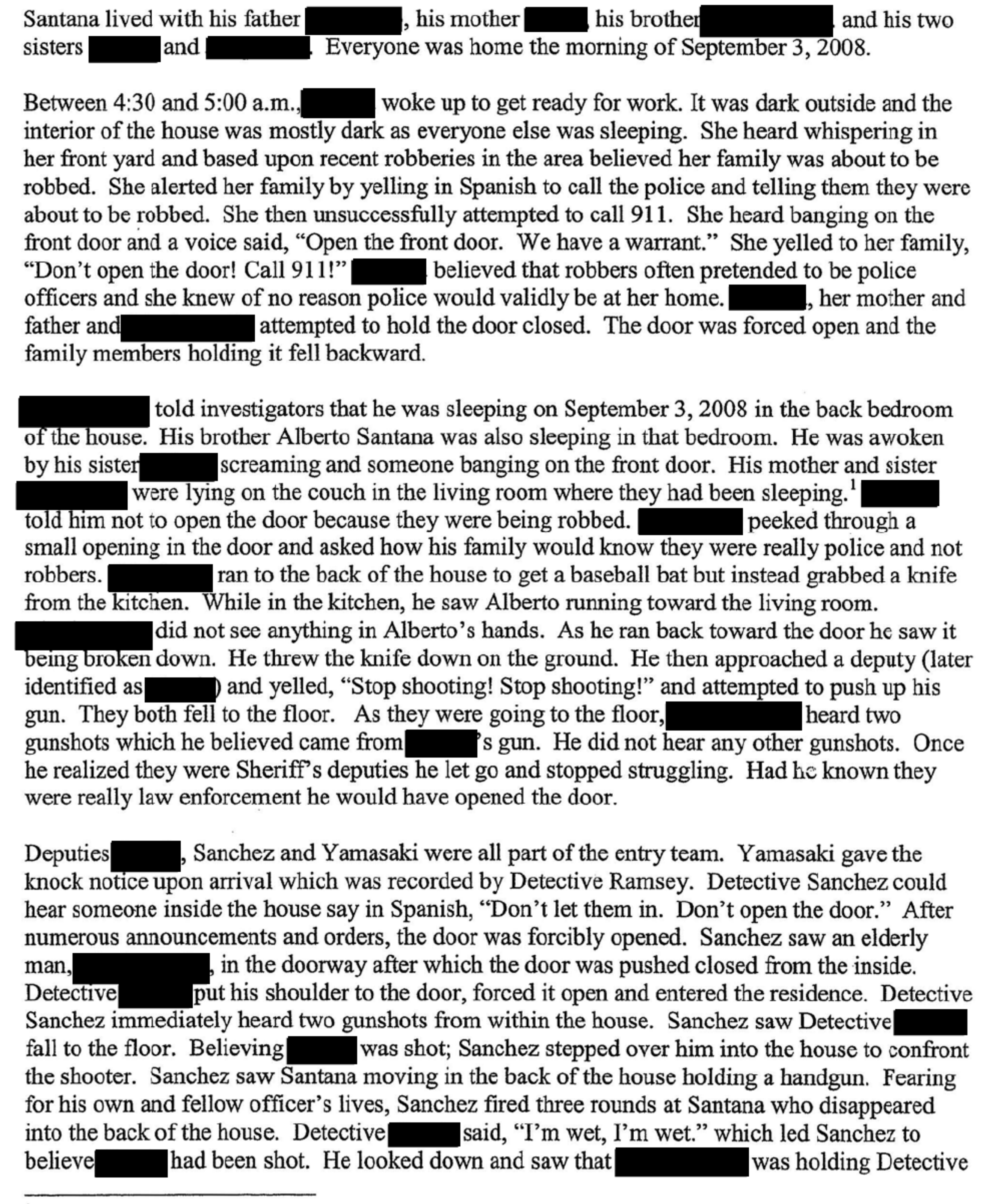
The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the September 3, 2008 non-fatal shooting of Alberto Santana by Los Angeles County Sheriff's Deputies [redacted] John Sanchez and Jamie Yamasaki. Based upon the information submitted to this office, we have determined the deputies to have acted in self-defense and the defense of others.

The following analysis is based upon a series of reports prepared by the Los Angeles County Sheriff's Department (LASD) submitted to this office on January 15, 2009. The District Attorney Command Center was notified of this shooting at 7:35 a.m. on September 3, 2008. Deputy District Attorney Margo Baxter and District Attorney Senior Investigators [redacted] and [redacted] responded to the scene where they were given a briefing, provided with a "walk through" of the scene and participated in witness interviews. No compelled statements were presented or considered for purposes of this analysis.

FACTUAL ANALYSIS

On September 3, 2008, Los Angeles County Sheriff's Department (LASD) Lennox Station Detective Bureau personnel assisted LASD's Operation Safe Streets Bureau in serving a Ramey arrest and search warrant at [redacted] 99th Street in the city of Inglewood. Their suspect was Alberto Santana (Santana) who was wanted on an attempted murder case.

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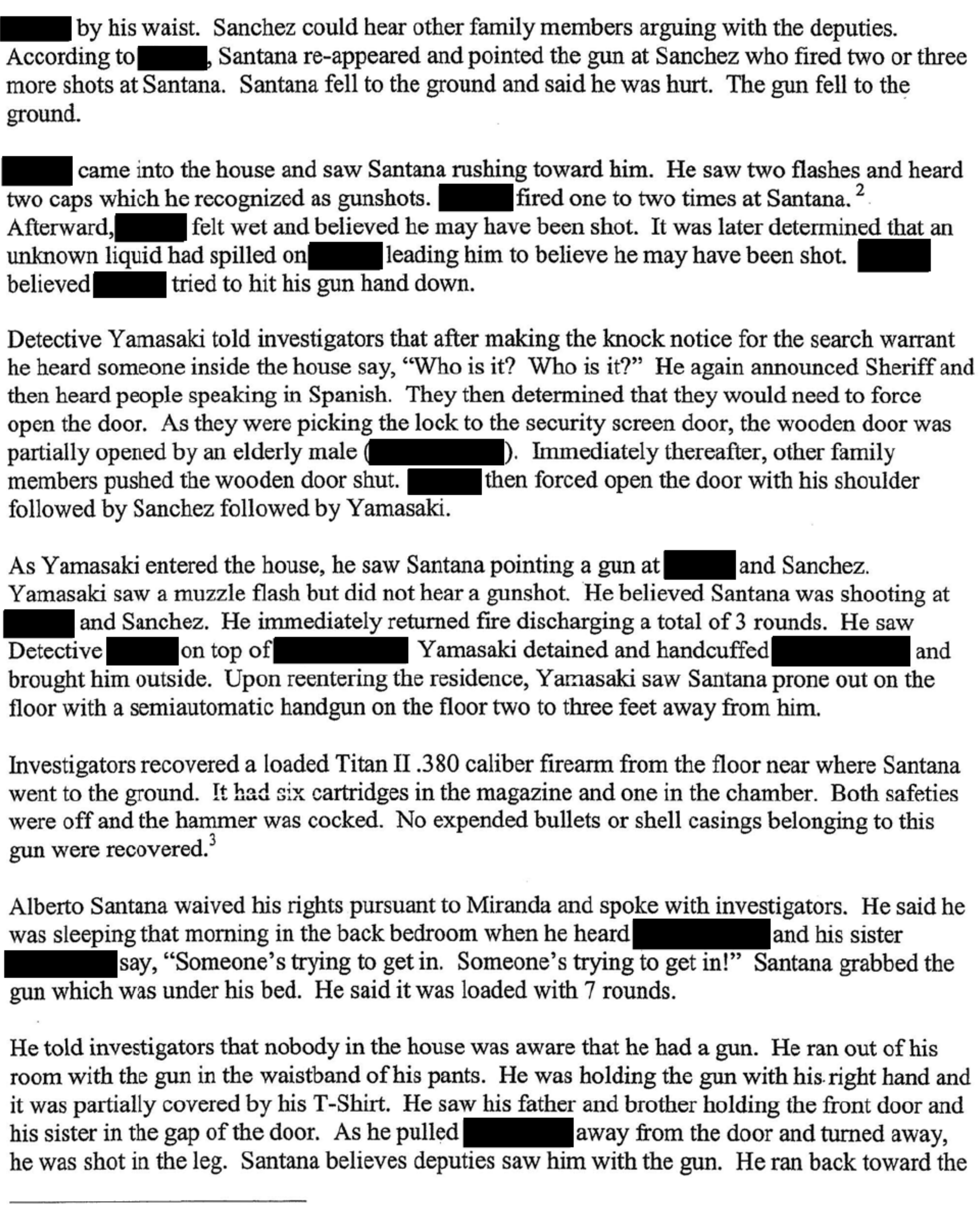
Santana lived with his father [redacted], his mother [redacted] his brother [redacted] and his two sisters [redacted] and [redacted]. Everyone was home the morning of September 3, 2008.

Between 4:30 and 5:00 a.m., [redacted] woke up to get ready for work. It was dark outside and the interior of the house was mostly dark as everyone else was sleeping. She heard whispering in her front yard and based upon recent robberies in the area believed her family was about to be robbed. She alerted her family by yelling in Spanish to call the police and telling them they were about to be robbed. She then unsuccessfully attempted to call 911. She heard banging on the front door and a voice said, "Open the front door. We have a warrant." She yelled to her family, "Don't open the door! Call 911!" [redacted] believed that robbers often pretended to be police officers and she knew of no reason police would validly be at her home. [redacted], her mother and father and [redacted] attempted to hold the door closed. The door was forced open and the family members holding it fell backward.

[redacted] told investigators that he was sleeping on September 3, 2008 in the back bedroom of the house. His brother Alberto Santana was also sleeping in that bedroom. He was awoken by his sister [redacted] screaming and someone banging on the front door. His mother and sister [redacted] were lying on the couch in the living room where they had been sleeping.[1] [redacted] told him not to open the door because they were being robbed. [redacted] peeked through a small opening in the door and asked how his family would know they were really police and not robbers. [redacted] ran to the back of the house to get a baseball bat but instead grabbed a knife from the kitchen. While in the kitchen, he saw Alberto running toward the living room. [redacted] did not see anything in Alberto's hands. As he ran back toward the door he saw it being broken down. He threw the knife down on the ground. He then approached a deputy (later identified as [redacted]) and yelled, "Stop shooting! Stop shooting!" and attempted to push up his gun. They both fell to the floor. As they were going to the floor, [redacted] heard two gunshots which he believed came from [redacted]'s gun. He did not hear any other gunshots. Once he realized they were Sheriff's deputies he let go and stopped struggling. Had he known they were really law enforcement he would have opened the door.

Deputies [redacted], Sanchez and Yamasaki were all part of the entry team. Yamasaki gave the knock notice upon arrival which was recorded by Detective Ramsey. Detective Sanchez could hear someone inside the house say in Spanish, "Don't let them in. Don't open the door." After numerous announcements and orders, the door was forcibly opened. Sanchez saw an elderly man, [redacted], in the doorway after which the door was pushed closed from the inside. Detective [redacted] put his shoulder to the door, forced it open and entered the residence. Detective Sanchez immediately heard two gunshots from within the house. Sanchez saw Detective [redacted] fall to the floor. Believing [redacted] was shot; Sanchez stepped over him into the house to confront the shooter. Sanchez saw Santana moving in the back of the house holding a handgun. Fearing for his own and fellow officer's lives, Sanchez fired three rounds at Santana who disappeared into the back of the house. Detective [redacted] said, "I'm wet, I'm wet." which led Sanchez to believe [redacted] had been shot. He looked down and saw that [redacted] was holding Detective

[1] The front door to the house opens directly into the living room. The house has two bedrooms. One faces the street and the other faces the backyard. The living room and the front bedroom share a wall.



[redacted] by his waist. Sanchez could hear other family members arguing with the deputies. According to [redacted], Santana re-appeared and pointed the gun at Sanchez who fired two or three more shots at Santana. Santana fell to the ground and said he was hurt. The gun fell to the ground.

[redacted] came into the house and saw Santana rushing toward him. He saw two flashes and heard two caps which he recognized as gunshots. [redacted] fired one to two times at Santana.[2] Afterward, [redacted] felt wet and believed he may have been shot. It was later determined that an unknown liquid had spilled on [redacted] leading him to believe he may have been shot. [redacted] believed [redacted] tried to hit his gun hand down.

Detective Yamasaki told investigators that after making the knock notice for the search warrant he heard someone inside the house say, "Who is it? Who is it?" He again announced Sheriff and then heard people speaking in Spanish. They then determined that they would need to force open the door. As they were picking the lock to the security screen door, the wooden door was partially opened by an elderly male ([redacted]). Immediately thereafter, other family members pushed the wooden door shut. [redacted] then forced open the door with his shoulder followed by Sanchez followed by Yamasaki.

As Yamasaki entered the house, he saw Santana pointing a gun at [redacted] and Sanchez. Yamasaki saw a muzzle flash but did not hear a gunshot. He believed Santana was shooting at [redacted] and Sanchez. He immediately returned fire discharging a total of 3 rounds. He saw Detective [redacted] on top of [redacted] Yamasaki detained and handcuffed [redacted] and brought him outside. Upon reentering the residence, Yamasaki saw Santana prone out on the floor with a semiautomatic handgun on the floor two to three feet away from him.

Investigators recovered a loaded Titan II .380 caliber firearm from the floor near where Santana went to the ground. It had six cartridges in the magazine and one in the chamber. Both safeties were off and the hammer was cocked. No expended bullets or shell casings belonging to this gun were recovered.[3]

Alberto Santana waived his rights pursuant to Miranda and spoke with investigators. He said he was sleeping that morning in the back bedroom when he heard [redacted] and his sister [redacted] say, "Someone's trying to get in. Someone's trying to get in!" Santana grabbed the gun which was under his bed. He said it was loaded with 7 rounds.

He told investigators that nobody in the house was aware that he had a gun. He ran out of his room with the gun in the waistband of his pants. He was holding the gun with his right hand and it was partially covered by his T-Shirt. He saw his father and brother holding the front door and his sister in the gap of the door. As he pulled [redacted] away from the door and turned away, he was shot in the leg. Santana believes deputies saw him with the gun. He ran back toward the

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[2] [redacted]'s gun was examined after the shooting. He had only fired one round. His gun jammed.
[3] Eight shell casings were recovered from the location. All were determined to be 9mm Luger shell casings which are consistent with being fired from the officer's guns.

bedroom and saw a bullet strike a computer next to him as he ran. Santana also heard his brother say, "I didn't know you guys were cops." Santana did not hear or see any other gunshots. Santana fell to the ground and told the deputies he was injured.

LEGAL ANALYSIS

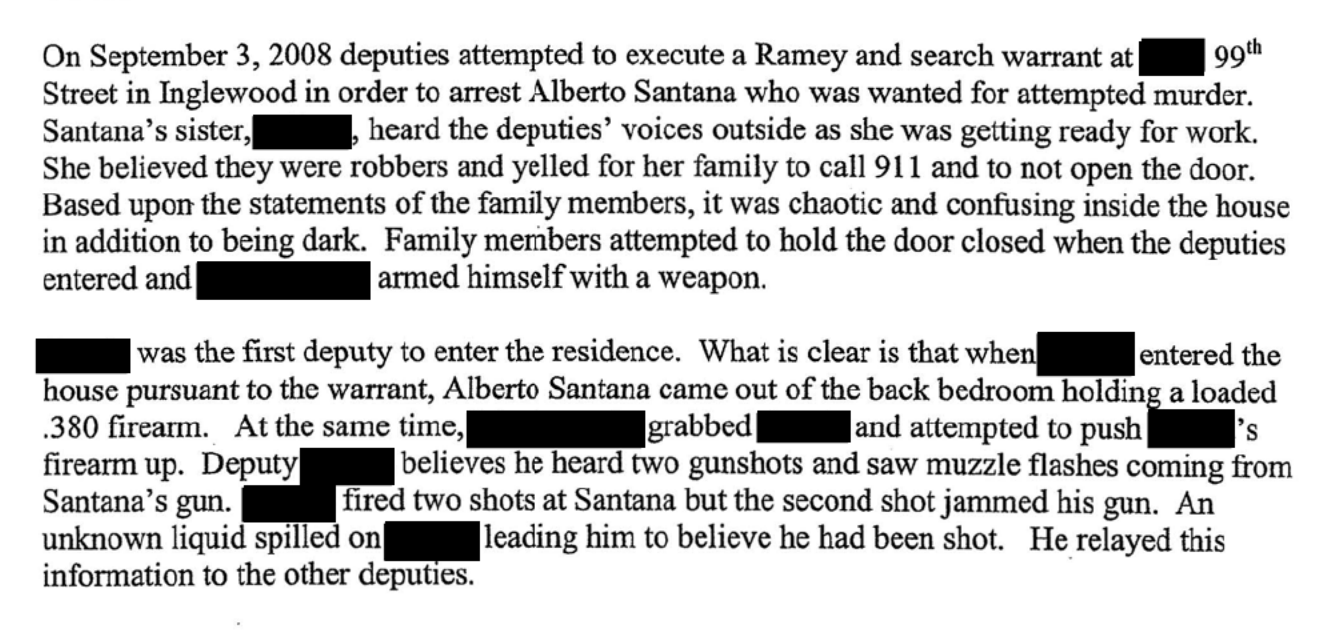
A peace officer who makes or attempts to make an arrest need not retreat or desist from his efforts by reason of the resistance or threatened resistance of the person being arrested. Penal Code Section 835a

California law permits the use of deadly force in self-defense or in the defense of another if it reasonably appears that the person claiming the right of self-defense or the defense of another actually and reasonably believed that he was in imminent danger of great bodily injury or death. People v. Williams (1977) 75 Cal.App.3d 731.

A person acts in legal self defense and/or the defense of others if they reasonably believed that themselves or a third party was in imminent danger of suffering bodily injury; they reasonably believed that immediate use of force was necessary to defend against that danger and they used no more force than was legally necessary to defend against that danger. CALCRIM No. 3470.

Actual danger is not necessary to justify the use of deadly force in self-defense. If one is confronted by the appearance of danger which one believes, and a reasonable person in the same position would believe, would result in death or great bodily injury, one may act upon those circumstances. The right of self defense is the same whether the danger is real or apparent. People v. Toledo (1948) 85 Cal.App.2d 577.

CONCLUSION



On September 3, 2008 deputies attempted to execute a Ramey and search warrant at [redacted] 99th Street in Inglewood in order to arrest Alberto Santana who was wanted for attempted murder. Santana's sister, [redacted], heard the deputies' voices outside as she was getting ready for work. She believed they were robbers and yelled for her family to call 911 and to not open the door. Based upon the statements of the family members, it was chaotic and confusing inside the house in addition to being dark. Family members attempted to hold the door closed when the deputies entered and [redacted] armed himself with a weapon.

[redacted] was the first deputy to enter the residence. What is clear is that when [redacted] entered the house pursuant to the warrant, Alberto Santana came out of the back bedroom holding a loaded .380 firearm. At the same time, [redacted] grabbed [redacted] and attempted to push [redacted]'s firearm up. Deputy [redacted] believes he heard two gunshots and saw muzzle flashes coming from Santana's gun. [redacted] fired two shots at Santana but the second shot jammed his gun. An unknown liquid spilled on [redacted] leading him to believe he had been shot. He relayed this information to the other deputies.

Sanchez entered the house immediately after [redacted]. As Sanchez entered, he heard two gunshots and saw [redacted] go to the floor and say he was wet. Sanchez saw Santana toward the back of the house holding a handgun. He fired three rounds at Santana. As Yamasaki entered the house, he saw a muzzle flash and saw Sanchez and [redacted] both pointing their guns at Santana. In fear for his life and the lives of Sanchez and [redacted], Yamasaki fired three rounds at Santana. From the interviews of the deputies and the family members it appears the shots were almost instantaneous. It appears there may be some confusion as to who shot first and some mistaken perceptions. Although Santana by his own admission was holding the loaded gun, it was determined that it had not been fired that morning. However, the right of self defense is available to the deputies if the danger was real or apparent.

We find that Alberto Santana placed Deputies [redacted] John Sanchez and Jamie Yamasaki in actual and reasonable fear of great bodily injury or death. We conclude that they acted in lawful self-defense and the defense of others. We are closing our file and will take no further action regarding this matter.

Very truly yours,

STEVE COOLEY
District Attorney

By Margo Baxter

MARGO BAXTER
Deputy District Attorney
[redacted]

c: Deputy [redacted]
Deputy John J. Sanchez, #[redacted]
Deputy Jamie Yamasaki, #[redacted]